

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ESTER BRASWELL

Plaintiff

vs.

AMERICAN GENERAL LIFE
And ACCIDENT INSURANCE
COMPANY, et al.

Defendants.

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CIVIL CASE NO. 2:06CV869-MHT

MOTION TO SUPPLEMENT AND SUBSTITUTE

Plaintiff hereby moves this Honorable Court to supplement and substitute the attached signed and notarized Affidavit in place of the unsigned Affidavit previously filed with this Court as Exhibit A to Plaintiff's Motion to Remand and Memorandum in Support Thereof.

/s/ Clinton C. Carter

CLINTON C. CARTER (CAR112)

Attorney for the Plaintiff

OF COUNSEL:

**Beasley, Allen, Crow,
Methvin, Portis & Miles, P.C.**
Post Office Box 4160
Montgomery, Alabama 36106
Telephone: 334-269-2343
Facsimile: 334-954-7555

CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Attorney(s) for Defendant American General Life and Accident Insurance Co.

Michael D. Mulvaney
David P. Donahue
MAYNARD COOPER & GALE, P.C.
1901 Sixth Avenue North
2400 AmSouth/Harbert Plaza
Birmingham, Alabama 35203-2602
Telephone: 205-254-1000
Facsimile: 205-254-1999

/s/ Clinton C. Carter
OF COUNSEL

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AFFIDAVIT OF PLAINTIFF

Before me, the undersigned, a Notary Public in and for the State of Alabama at Large, personally appeared Ester Braswell, who is known to me and who being by me first duly sworn, on oath, deposes and says as follows:

"My name is Ester Braswell. I am the Plaintiff in the above-styled case and am competent to testify. I make this affidavit based on personal knowledge.

I did not intend to seek damages in excess of the total amount \$75,000.00 at the time the complaint was filed. I irrevocably agree that the amount of damages claimed by me in this action is and will forever be no more than \$75,000.00 exclusive of interest and costs. I irrevocably agree to the entry of an order of this Court which places an irrevocable cap upon the amount of damages which may be sought by or awarded to me in this case, and that this cap shall be set as \$75,000.00 exclusive of interest and costs. I will under no circumstances accept a judgment or settlement in this case in excess of \$75,000.00. I agree, acknowledge, and understand that this agreement is binding upon me and my heirs, executors, administrators, and assigns, and cannot be rescinded or revoked under



any circumstances regardless of any development which may occur during the investigation, discovery, pretrial, or trial of this action."

Ester Braswell
Ester Braswell

SWORN to and SUBSCRIBED before me on this the 3rd day of October,
2006.

<SEAL>

Wanda Colvin Braswell
NOTARY PUBLIC
My Commission Expires: Aug 25, 2008
NOTARY PUBLIC STATE OF ALABAMA ATTORNEY
MY COMMISSION EXPIRES: AUG 25, 2008
BONDED THROUGH NOTARY PUBLIC TRUST